

(2006) 07 JH CK 0122
In the Jharkhand High Court
Case No : WP (S) No. 6383 of 2001

Ram Balak Dusadh

APPELLANT

Vs

Bokaro Steel Ltd. and Another

RESPONDENT

Date of Decision : 11-07-2006

Acts Referred:

Citation : (2006) 4 JCR 248

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Advocate : RCP Sah, for the Appellant; Rajeev Ranjan, for the Respondent

Final Decision : Dismissed

Judgement

Permod Kohli, J.—Petitioner was appointed as over Top Man on 14th of August, 1973 and he joined his service on 23rd of October, 1973 in the pay scale of Rs. 230-284/-. On 31st of March, 1987 petitioner was caught by the CISF Personnel while trying to take out mobil oil approximately 2.50 liters from the plant concealed in his scooter. He was charge-sheeted by the Management on being suspended by letter dated 30th of April, 1987 and Enquiry Committee was constituted vide letter dated 3rd of June, 1987 to enquire into the charges. The Enquiry Committee reported that the charge was established against the petitioner and, accordingly, petitioner came to be dismissed from service vide order No. 114 dated 14th of September, 1987. An industrial dispute was raised, which was referred to the Labour Court. Bokaro, being Case No. 6 of 1990. The Labour Court, Bokaro vide its award dated 5th of April, 2004 upheld the order of dismissal. Petitioner has challenged the award of the Labour Court in the present writ petition and also the order of dismissal primarily on the ground that he was not involved in any act of misconduct of theft and the personnel of CISF misused their power. It is stated that even FIR was not lodged in respect to the alleged theft, which clearly indicate that petitioner was not involved in the theft.

2. I have perused the award, impugned in this writ petition. The Labour Court

has recorded the findings on the basis of the materials placed before it. The Labour Court is of the view that charge has been established against the petitioner. It has further observed that petitioner has committed his guilt before the Court and, accordingly, confirmed the punishment of dismissal imposed upon him on enquiry by the employer.

3. In the counter filed, it has been mentioned that the misconduct as per Clause 37 (xiii) of the Standing Orders of the Company has been established and the employee also admitted his guilt and begged pardon. The workman has lost the confidence of the Management and the nature of charge being serious in nature, thus, dismissal of the workman is justified. Though no plea has been raised in the writ petition that the punishment imposed is disproportionate, however, learned Counsel appearing for the petitioner has submitted that the punishment awarded to the petitioner is disproportionate to the misconduct and hence the punishment is liable to be set aside. The latest trends of the judgments of the Apex Court on this issue be noticed herein below:

In the case of *Syndicate Bank and Others Vs. Venkatesh Gururao Kurati*, the Hon''ble Supreme Court held as under:

In our view, this is no ground for converting the order of removal from service into compulsory retirement. On the question of punishment being disproportionate to the charges framed and proved, we are of the view that the charges framed and proved are grievous in nature, which would normally attract removal from service, if such charges were proved. We are also of the view that sentiments and compassion have no role to play in such a situation when the gravity of misconduct such as this has been found well proved against the respondent.

In another case in *V. Ramana Vs. A.P.S.R.T.C. and Others*, the Hon''ble Supreme Court held:

The common thread running through in all these decisions is that the Court should not interfere within the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury* case the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision for that of the administrator. The scope of judicial review is limited to the deficiency in decision making process and not the decision.

Above judgments were followed by the Apex Court in yet another later judgment in the case of *A. Sudhakar v. Post Master General, Hyderabad and Anr.* reported in (2006) 4 SCC 348. While considering the interference in the quantum of punishment, the Hon''ble Supreme Court of India held as under:

Contention of Dr. Pillai relating to the quantum of punishment cannot be

accepted, having regard to the fact that temporary defalcation of any amount itself was sufficient for the disciplinary authority to impose the punishment of compulsory retirement upon the appellant and in that view of the matter, the question that the third charge had been partially proved takes a back seat.

Even in the writ petition filed in Para "6", petitioner has admitted allegations against him, which is quoted herein below:

That, on 31.3.1987. the petitioner was caught by CISF personnel while trying to take out mobil oil approximately 2.50 ltrs from the plant concealed in his scooter.

4. In view of the above admission of guilt by the petitioner and latest trend of the law coupled with the fact that no such relief is claimed, I do not find any merit in this writ application, which, is accordingly, dismissed.